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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA

5 v.

12 CR 876 (ALC)

6 PAUL CEGLIA,

7 Plaintiff.

8 -----x

9 New York, N.Y.
10 September 27, 2013
11 2:00 p.m.

12 Before:

13 HON. ANDREW L. CARTER, JR.
14 District Judge

15 APPEARANCES

16 PREET BHARARA
17 United States Attorney for the
18 Southern District of New York
19 JANIS ECHENBERG
20 CHRISTOPHER FEY
21 Assistant United States Attorney

22 FEDERAL DEFENDERS OF NEW YORK INC.
23 Attorneys for Defendant
24 DAVID PATTON
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(In open court; case called)

THE DEPUTY CLERK: Counsel, please state your appearance for the record.

MS. ECHENBERG: Janis Echenberg for the government. With me at counsel table is my colleague Christopher Frey.

THE DEPUTY CLERK: For the defendant.

MR. PATTON: David Patton for Paul Ceglia, who, as we've discussed with the Court in the past, is not present for his status conference. He waives his presence, and I've spoken to him about likely proceedings today.

THE COURT: Good afternoon.

Just so we are clear, Mr. Patton, have you informed Mr. Ceglia that he has the right to appear by telephone if he wishes?

MR. PATTON: I have, and I told him that, in all likelihood, today was going to be about scheduling. He waived his appearance.

THE COURT: OK. So where are we today?

MS. ECHENBERG: So, your Honor, we are still in the position where we have produced most of the discovery. There are a few outstanding items. There is a forensic analysis that is being done on the contract at issue. We expect to have a lab report from the postal lab on Monday. We've advised Mr. Patton of that. We expect to provide that as soon as we get it.

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1 There are also some categories of documents I believe
2 that we discussed at the last conference that are potentially
3 privileged from law firms who had represented Mr. Ceglia in his
4 civil case in the past. They have provided those documents
5 both to Mr. Patton and to an assistant in our office who is
6 walled off from us. He is in the process of working his way
7 through those documents and continues to be in communication
8 with Mr. Patton, and may be either working out with Mr. Patton
9 whether or not there is privilege or there may be some
10 litigation on that down the road.

11 We also have a forensic analyst looking at the
12 electronic media. We have produced all the underlying
13 electronic media to Mr. Patton, and we are waiting for a final
14 report from our analyst. But everything else in the case has
15 been produced at this point.

16 We understand from Mr. Patton, as he mentioned at the
17 last conference, that he intends to make a motion to dismiss
18 the indictment, and we are prepared to set a schedule for that
19 motion at this point. Mr. Patton suggested, and we agree, that
20 it might make sense to get through that motion first, and then
21 to the extent he has other motions, those could follow after
22 the motion to dismiss has been resolved.

23 So Mr. Patton is asking, and he can explain to your
24 Honor why, for 60 days on that motion. That would put us at
25 November 27. Given all the holidays that follow, we would ask

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1 that our response be due on January 10, and Mr. Patton is
2 asking for two weeks to then reply to our motion

3 THE COURT: Thank you.

4 Mr. Patton, anything to add to that?

5 MR. PATTON: Not a thing. Thank you.

6 THE COURT: And counsel for the government indicated
7 you'd like 60 days to file the motion. Can you tell me why you
8 need that amount of time for that?

9 MR. PATTON: I will, your Honor. It just so happens
10 that my next month is extraordinarily busy. It is a fairly
11 voluminous motion involving a number of legal arguments why on
12 the face of the indictment it should be dismissed.

13 THE COURT: Thank you. And I take it the discovery
14 that has yet to be turned over will not have any impact on this
15 motion that you are that you are making?

16 MR. PATTON: That's correct, your Honor, which is why,
17 as the government represented, I'd ask that the briefing
18 schedule we are setting up is just for the motion to dismiss;
19 that should we have additional motions relating to the
20 specifics of the discovery, that we be permitted to make those
21 at a later time.

22 THE COURT: OK. It seems to me that it is appropriate
23 to set a briefing schedule. The briefing schedule that has
24 been suggested by the parties is fine with me. So let's have
25 the defense motion filed on November 27, the government's

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1 response on January 10, and any reply by January 24.

2 Let's get a return date set. Can we get a date
3 perhaps three weeks after that, Tara? Where does that take us?

4 THE DEPUTY CLERK: February 14, 10:00 a.m.

5 THE COURT: Hold on a second.

6 THE DEPUTY CLERK: Wednesday, February 19 at
7 10:00 a.m.

8 THE COURT: Does that date and time work for
9 everybody?

10 MS. ECHENBERG: That's fine for the government.

11 MR. PATTON: That's fine with me, your Honor.

12 THE COURT: Based on the representations made by
13 counsel about the discovery that is ongoing in this case, based
14 on my earlier determination that this is a complex case due to
15 the nature of discovery, the volume of discover, the testing
16 that needs to take place, and because there is a motion that is
17 pending or will be pending before the Court, because of this
18 motion, the time is automatically excludable under the Speedy
19 Trial Act. And in a addition, for those other reasons I've set
20 forth, I find it is in the interest of Mr. Ceglia and in the
21 interest of justice to exclude time under the Speedy Trial Act
22 from today's date until February 19th, and I find that the
23 interest of justice and the interest of Mr. Ceglia outweigh the
24 public's interest in a speedy trial, and I will enter an order
25 to that effect.

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1 Anything else from the government today?

2 MS. ECHENBERG: Nothing from the government, no.

3 THE COURT: Anything else from the defense?

4 MR. PATTON: No, your Honor. Thank you.

5 THE COURT: Thank you very much. Have a good day.

6 (Adjourned)

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